IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

SOUTHERN DISTRICT OF MISSISSIPPI
FILED
SEP 26 2012
J. T. NOBLIN, CLERK
BY ___ DEPUTY

E. CECIL McCRORY, individually
and on behalf of the heirs-at-law
of Courtney McCrory, Deceased — PLAINTIFF

v. — Case No. 3:12CV674 HTW-LRA

AMERICAN GUARANTEE AND
LIABILITY INSURANCE COMPANY — DEFENDANT

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1441 and 1446, the defendant, American Guarantee and Liability Insurance Company ("AGLIC"), hereby removes this action, with reservation of all defenses, from the Circuit Court of Rankin County, Mississippi, to the United States District Court for the Southern District of Mississippi, Jackson Division. Subject matter jurisdiction is based upon 28 U.S.C. § 1332(a). As grounds for removal, AGLIC would show as follows:

1. On August 31, 2012, AGLIC was served with a writ of garnishment (Exhibit 1) issued by the Circuit Court of Rankin County, Mississippi, in Civil Action Number 2000-193. Said writ of garnishment was issued on the basis of a suggestion for garnishment (Exhibit 2) filed by the plaintiff, E. Cecil McCrory ("McCrory"). In these garnishment pleadings, McCrory seeks a determination of whether AGLIC is obligated to indemnify Joe Ed Carter ("Carter") and/or M&A Trucking Company, Inc. ("M&A") relative to a judgment dated August 31, 2009, in the sum of $2,720,689. McCrory asserts that AGLIC may be obligated to pay all or portions of said judgment on the basis of a commercial umbrella liability insurance policy purportedly issued by AGLIC to Rollins Truck Leasing Corporation.

2. A garnishment proceeding is separate and distinct from the primary action that established the judgment debt and is thus removable as a distinct civil action pursuant to 28 U.S.C. § 1441(a).

3. McCrory is a citizen of Rankin County, Mississippi.

4. AGLIC is a New York corporation engaged in the insurance business with a statutory home office located at One Liberty Plaza, 165 Broadway, 32nd Floor, New York, New York 10006, and a principal place of business located at 1400 American Lane, Schaumburg, Illinois 60196.

5. As shown above, this is an action "between ... citizens of different states" for purposes of 28 U.S.C. § 1332(a). That is, McCrory is a citizen of Mississippi, and AGLIC is a citizen of New York and Illinois.

6. As shown in Exhibit 1, McCrory is seeking to recover from AGLIC the judgment amount of $2,720,689 and additional post-judgment interest and fees in the sum of $652,464.04, for an aggregate claim of $3,373,153.04. Consequently, the amount in controversy clearly exceeds $75,000, exclusive of interests and costs, as required under 28 U.S.C. § 1332(a).

7. AGLIC was served with the writ of garnishment via its registered agent in Mississippi, Charles A. Brewer, on August 31, 2012. Pursuant to 28 U.S.C. § 1446(b), "notice of removal of a civil action or proceeding shall be filed within thirty days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based, ..." In consideration of the foregoing, this notice of removal, which is being filed within 30 days after receipt of the writ of garnishment by AGLIC, is timely.

8. As required by 28 U.S.C. § 1446(d), copies of this notice have been forwarded by first-class mail to McCrory's counsel of record and the Clerk of the Circuit Court of Rankin County, Mississippi.

9. In accordance with 28 U.S.C. § 1446(a), copies of all process, pleadings, and orders served on AGLIC in the removed proceeding are attached to this notice. *See* Exhibits 1 and 2. A certified copy of the state court relative to the removed proceeding has been requested and will be made a part of the record herein.

10. There is now pending a separate garnishment proceeding commenced by McCrory against United National Insurance Company ("UNIC") in the Circuit Court of Rankin County, Mississippi, Civil Action Number 2000-193. In said proceeding, McCrory seeks a determination of whether UNIC is obligated to indemnify Carter and/or M&A relative to the same circuit court judgment that forms the basis for this action. The UNIC garnishment proceeding is being separately removed to the United States District Court for the Southern District of Mississippi, Jackson Division.

WHEREFORE, for the reasons set forth above, AGLIC gives notice of its removal of this action to this Court as provided by law.

Date: September 25, 2012

Respectfully submitted,

Jeffrey S. Dilley, MBN 6127
jsd@henke-bufkin.com
HENKE BUFKIN, P.A.
Post Office Box 39
Clarksdale, MS 38614
662-624-8500 (telephone)
662-624-8040 (fax)

Attorneys for American Guarantee and Liability Insurance Company

Certificate of Service

I, Jeffrey S. Dilley, attorney for the defendant, American Guarantee and Liability Insurance Company, do hereby certify that I have this day served, via United States mail, postage prepaid, a true and correct copy of the above and foregoing Notice of Removal to the following persons:

Mr. Michael V. Cory, Jr.
Danks, Miller & Cory
P.O. Box 1759
Jackson, MS 39215-1759

Ms. Becky Boyd
Circuit Clerk of Rankin County
P.O. Box 1599
Brandon, MS 39043

This, the 25th day of September, 2012.

Jeffrey S. Dilley